

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

ITC MIDWEST, LLC,

Petitioner,

vs.

IOWA UTILITIES BOARD,

Respondent.

Case No. 05771 CVCV063439

**APPEARANCE AND APPLICATION
FOR LEAVE
OF COURT TO INTERVENE**

COMES NOW the undersigned, on behalf of Corn Belt Power Cooperative ("Corn Belt"), Central Iowa Power Cooperative ("CIPCO"), Northwest Iowa Power Cooperative ("NIPCO"), and Northeast Missouri Electric Power Cooperative ("NE Power"), and files this Appearance and Application to Intervene in this proceeding pursuant to Iowa Rule of Civil Procedure 1.407(1)(b) and Iowa Code §17A.19, and in support of its Application states as follows:

1. Corn Belt, CIPCO, NIPCO, and NE Power (hereafter sometimes referred to collectively as the "G&T Cooperatives") are generation and transmission cooperatives that provide wholesale electric service to their distribution cooperative members in the State of Iowa.

2. The G&T Cooperatives own and operate electric transmission lines in Iowa for which franchises have been issued by the Iowa Utilities Board pursuant to Iowa Code Chapter 478 and Iowa Administrative Code 199 Chapter 11.

3. This Petition for Judicial Review involves the interpretation and application of 199 IAC 11.6, which deals with the requirements for an amendment to an electric transmission line franchise. Specifically, the Iowa Utilities Board has held that 199 IAC 11.6(1)"b" requires an

amendment to a franchise be obtained by an owner of a transmission line when a switching station bisects a previously franchised line, on the theory that the previous single circuit that was franchised has been transformed into two separate circuits.

4. As holders of electric transmission line franchises issued by the Iowa Utilities Board, the G&T Cooperatives have an interest in the outcome of these proceedings and could be adversely impacted by an improper interpretation and application of the relevant rule and statutes.

5. The undersigned filed an appearance in the proceedings before the Iowa Utilities Board on behalf of Central Iowa Power Cooperative and Corn Belt Power Cooperative and appeared and participated at the Technical Conference held before the administrative agency on January 10, 2022.

6. The G&T Cooperatives seeks to intervene in this proceeding as provided under Iowa Rule of Civil Procedure 1.407(1)(b), for the purpose of supporting the interpretation of the applicable statutes and rule as proposed by the Petitioner, ITC Midwest, LLC. Rule 1.407(1)(b) confers the right to intervene when an applicant claims an interest in the subject action that may be affected by the proceeding, and the disposition of the action may as a practical matter impair or impede the applicant's ability to protect that interest, and such interest is not adequately represented by existing parties. As holders of existing transmission line franchises issued by the Respondent Iowa Utilities Board, the G&T Cooperatives will undoubtedly be impacted by the outcome of this proceeding and the Iowa Utilities Board's interpretation of its rules concerning amendments to franchises. To the extent the G&T Cooperatives' franchises and methods of construction may be different than those issued to ITC Midwest, LLC, the interests of the G&T Cooperatives cannot be adequately protected by ITC Midwest, LLC, even though the interests of the G&T Cooperatives may be aligned with that of ITC Midwest, LLC.

7. The Petition for Judicial Review was filed on April 7, 2022. This Appearance and Application to Intervene is timely filed pursuant to Iowa Code §17A.19(2).

8. The intervention of the G&T Cooperatives will not unduly delay or prejudice the adjudication of the rights of the other Parties hereto.

WHEREFORE, the G&T Cooperatives request that the Court grant their motion to intervene pursuant to Iowa Rule of Civil Procedure 1.407(1)(b), with unrestricted rights to participate as parties in this proceeding with the undersigned counsel entering his appearance on behalf of the G&T Cooperatives and all other relief deemed just and equitable in the premises.

Respectfully submitted,

SULLIVAN & WARD, P.C.

By: 

Dennis L. Puckett AT0006476

6601 Westown Parkway, Suite 200

West Des Moines, Iowa 50266

Telephone: (515) 244-3500

Facsimile: (515) 244-3599

Email: dpuckett@sullivan-ward.com

**ATTORNEYS FOR THE G&T
COOPERATIVES**

All Parties served electronically through the Court's Electronic Filing System